

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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TYHERE VICK,

Plaintiff,

CIVIL ACTION No.: 20-cv

vs.

NOTICE OF REMOVAL

JULIAN KING, USA TRUCK, INC., JOHN DOE #1-
10 (fictitious names), XYZ BUSINESS ENTITY #1-
10 (fictitious names), j/s/a,

Defendants.

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TO: Tara Magitz, Esq.
Drinkwater & Goldstein, LLP
277 White Horse Pike, Ste. 200
Atco, New Jersey 08004

PLEASE TAKE NOTICE, that on this date, defendants JULIAN KING and USA TRUCK, INC. by their undersigned counsel, have filed this Notice of Removal pursuant to 28 U.S.C. §1446(a), in the office of the Clerk of the United States District Court for the District of New Jersey.

1. Plaintiff TYHERE VICK brought a lawsuit against defendants JULIAN KING and USA TRUCK, INC. by filing a Complaint and Jury Demand in the Superior Court of the State of New Jersey, Law Division, Gloucester County on or about October 16, 2020 as a result of an alleged accident which occurred on or about October 19, 2018. A copy of the Complaint is annexed hereto as Ex A.

2. Upon information and belief, the Summons and Complaint were not received by USA TRUCK, INC. to date, however, the plaintiff has indicated that he has served USA Truck, Inc. on October 21, 2020 through CT Corp. in West Trenton, New Jersey. Ex. B.

3. Upon information and belief, the Summons and Complaint were not received by JULIAN KING to date.

4. There have been no other proceedings in this action.

5. According to the plaintiff's complaint (Ex. A), the plaintiff purports to be a citizen and resident of the State of New Jersey, residing in the Township of Logan, and County of Gloucester.

6. Defendant USA TRUCK, Inc. is a corporation incorporated in the State of Arkansas and maintains its principal place of business in Van Buren, Arkansas.

7. Defendant JULIAN KING is a resident of the State of New York, residing in Brooklyn.

8. In the First Count, 6th paragraph and Second Count, 5th paragraph of the plaintiff's Complaint, plaintiff TYHERE VICK alleged that he sustained personal injuries of both a temporary and permanent nature, endured and will endure great pain and suffering and has been and will be compelled to expend large sums of money for physicians and medical treatment in an attempt to cure himself of his injuries and has been prevented from attending to his normal business and affairs, and has suffered various other economic and non-economic damages. Ex. A.

9. Based upon the language set forth in the plaintiff's Complaint, the matter in controversy exceeds \$75,000, exclusive of interest and costs. Please see Ex. A.

10. Jurisdiction over the subject matter of this action is conferred on this Court by 28 U.S.C. §1441(a).

11. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1441 in that the parties are of complete diversity of citizenship, the amount in controversy exceeds \$75,000 exclusive of interest and costs.

PLEASE TAKE FURTHER NOTICE, that the defendants, upon filing the Notice of Removal in the office of the Clerk of the United States District Court for the District of New Jersey, have also filed copies of the Notice with the Clerk of the Superior Court of New Jersey, Law Division, Gloucester County Courthouse, County, 1 N Broad St, Woodbury, NJ 08096, to effect removal of this action to the United States District Court pursuant to 28 U.S.C. §1446(b).

Dated: November 20, 2020

LAW OFFICES OF LORNE M. REITER, LLC
Attorneys for defendants
JULIAN KING and USA TRUCK, INC.
124 First Avenue
Atlantic Highlands, New Jersey 07716

BY: s/Lorne M. Reiter
LORNE M. REITER

EXHIBIT A

DRINKWATER & GOLDSTEIN, L.L.P.

TARA L. MAGITZ (NJ ID: 025592010)

277 WHITE HORSE PIKE, SUITE 200

ATCO, NEW JERSEY 08004

(856) 753-5131

Attorneys for Plaintiffs: Tyhere Vick

TYHERE VICK

Plaintiffs,

vs.

JULIAN KING, USA TRUCK, INC.

JOHN DOE #1-10 (fictitious names), XYZ

BUSINESS ENTITY #1-10 (fictitious
names), j/s/a

Defendants

: SUPERIOR COURT OF NEW JERSEY

: LAW DIVISION-

: GLOUCESTER COUNTY

: DOCKET NO. GLO-L-

Civil Action

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

Plaintiffs, TYHERE VICK, residing at 310 North Broad Street, Apt. R-3,
Carney's Point Township, County of Salem, and State of New Jersey, by way of
complaint against the Defendants say:

FIRST COUNT

1. At all times hereinafter mentioned, defendant, USA TRUCK, INC. was
a foreign profit corporation with a home jurisdiction of Delaware and a main business
address of 3200 Industrial Park Rd., Van Buren, AR 72956.

2. On or about October 19, 2018, Plaintiff, TYHERE VICK, was the owner
and operator of a vehicle stopped at the intersection of Oldmans Creek Road and
Pedricktown Road, in traffic, in the Township of Logan, County of Gloucester, and
State of New Jersey.

3. At the aforesaid time and place, defendant, JULIAN KING and/or JOHN DOE #1-5 (fictitious names), was the operator of a tractor trailer truck owned by Defendant USA TRUCK, INC., that was traveling on Pedricktown Road, making a left turn onto Oldmans Creek Road, in the Township of Logan, County of Gloucester, and State of New Jersey, and failed to make observations of vehicles traveling, and failed to adequately pay attention to the roadway, turning too tightly, thereby causing a collision with the plaintiff, TYHERE VICK.

4. At the aforesaid time and place, defendant, JULIAN KING and/or JOHN DOE #1-5 (fictitious names), operated the aforesaid vehicle in a negligent and careless manner in that he failed to have his vehicle under proper control, failed to make proper observations, failed to keep proper attention, failed to yield the right of way, failed to observe controlling traffic signals, and was otherwise negligent.

5. As a result of the negligence and carelessness of defendant, JULIAN KING and/or JOHN DOE #1-5 (fictitious names), as aforesaid, that motor vehicle operated by said defendant, was caused to collide with the vehicle which TYHERE VICK was operating.

6. As a result of the aforesaid collision, plaintiff, TYHERE VICK, sustained personal injuries of both a temporary and permanent nature. Endured and will endure great pain and suffering, and has been and will be compelled to expend large sums of money for physicians and medical treatment in an attempt to cure himself of his said injuries and has been prevented from attending to his normal business and affairs, and has suffered various other economic and non-economic damages, including but not limited to various damages.

WHEREFORE, plaintiff, TYHERE VICK, DEMANDS judgment against the defendant, JULIAN KING and/or JOHN DOE #1-5 (fictitious names), for such sums as would be reasonably and properly compensate him in accordance with the laws of the State of New Jersey, together with interest and court costs.

SECOND COUNT

1. For the sake of brevity, all paragraphs of Count One are repeated herein and made part of the Second Count as though specifically set forth herein at length.

2. At the aforesaid time and place, defendant, JULIAN KING and/or JOHN DOE #1-5 (fictitious names), operated a motor vehicle owned by defendant USA TRUCK, INC. AND/OR XYZ BUSINESS ENTITY #1-5 (fictitious names), as the agent, servant and/or employee of defendant, USA TRUCK, INC. AND/OR XYZ BUSINESS ENTITY #1-5 (fictitious names).

3. Defendant, USA TRUCK, INC. AND/OR XYZ BUSINESS ENTITY #1-5 (fictitious names), is responsible and liable for the aforesaid negligent acts of the agent, servant and/or employee, JULIAN KING and/or JOHN DOE #1-5 (fictitious names), under the doctrine of Respondeat Superior, agency, and/or vicarious liability and/or family purpose doctrine.

4. Defendant, USA TRUCK, INC. AND/OR XYZ BUSINESS ENTITY #1-5 (fictitious names), negligently entrusted the motor vehicle to defendant, JULIAN KING, knowing of that defendant's careless driving habits.

5. As a result of the aforesaid collision, plaintiff, TYHERE VICK, sustained bodily injuries of both a temporary and permanent nature. Endured and will endure great pain and suffering, and has been and will be compelled to expend large sums of money

for physicians and medical treatment in an attempt to cure himself of his said injuries and has been and will be prevented from attending to his normal business and affairs, and has suffered various other economic and non-economic damages, including but not limited to various property damages.

WHEREFORE, Plaintiff, TYHERE VICK, demands judgment against the defendant, USA TRUCK, INC. AND/OR XYZ BUSINESS ENTITY #1-5 (fictitious names), for such sums as would reasonably and properly compensate him in accordance with the laws of the State of New Jersey, together with interests and court costs.

THIRD COUNT

1. For the sake of brevity, all paragraphs of Counts One through Two are repeated herein and made part of the Third Count as though specifically set forth herein at length.

WHEREFORE, plaintiff, TYHERE VICK, demands judgment against the defendants, JULIAN KING, JOHN DOE #1-5 (fictitious names) AND/OR XYZ BUSINESS ENTITY #1-5 (fictitious names), jointly, severally and/or in the alternative, for such sums as would reasonably and properly compensate him in accordance with the laws of the State of New Jersey, together with interest and court costs.

DRINKWATER & GOLDSTEIN, L.L.P.



TARA L. MAGITZ, ESQUIRE
Attorney for Plaintiffs

DATED: October 14, 2020

DEMAND FOR COMPLIANCE WITH RULES 4:10-2, 4:17 ET SEQ. AND 4:18-1

TAKE NOTICE that the undersigned attorney, counsel for Plaintiff(s), hereby demands, pursuant to the provisions of Rule 4:10-2(b), that each Defendant named in the caption of this Complaint provide certified answers to the Request for Insurance Information, separately, within the time prescribed by the Rules of this Court.

TAKE FURTHER NOTICE that the undersigned attorney, counsel for Plaintiff(s), hereby demands, pursuant to the provisions of Rules 4:10-2 and 4:17 et seq., that each Defendant named in the caption of this Complaint provide certified answers to the Interrogatories prescribed by Form C and Form C.1 of Appendix II of the Rules of this Court and the set of Supplemental Interrogatories, under separate cover, within the time prescribed by the rules of this Court.

TAKE FURTHER NOTICE that the undersigned attorney, counsel for Plaintiff(s), hereby demands pursuant to the provisions of Rules 4:10-2 and 4:18-1, that each Defendant named in the caption of this Complaint provided certified answers to the Notice to Produce, attached hereto, within the time prescribed by the Rules of this Court.

PLEASE TAKE NOTICE that the Plaintiff hereby DEMANDS a trial by jury as to all issues in the within cause of action.

DRINKWATER & GOLDSTEIN, L.L.P.



TARA L. MAGITZ, ESQUIRE
Attorney for Plaintiffs

CERTIFICATION

I certify that the matter in controversy is not the subject of any other action pending in any Court and is not the subject of a pending arbitration proceeding. Further, there are no other parties who should be joined in this litigation of whom I am aware, other than those named herein.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DRINKWATER & GOLDSTEIN, L.L.P.



TARA L. MAGITZ, ESQUIRE
Attorney for Plaintiffs

DESIGNATION OF TRIAL ATTORNEY

PLEASE TAKE NOTICE that Tara L. Magitz, Esq. is hereby designated as trial counsel.

DRINKWATER & GOLDSTEIN, L.L.P.



TARA L. MAGITZ, ESQUIRE

DATED: October 14, 2020

EXHIBIT B

COURT HOUSE LEGAL SERVICES, INC.
112 Haddontowne Ct, Ste. 304
Cherry Hill, NJ 08034
(856) 428-4700
Our Job Serial Number: CHL-2020007954
Ref: VICK/KING

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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TYHERE VICK,

Plaintiff,

CIVIL ACTION No.: 20-cv

vs.

JULIAN KING, USA TRUCK, INC., JOHN DOE #1-
10 (fictitious names), XYZ BUSINESS ENTITY #1-
10 (fictitious names), j/s/a,

CERTIFICATION OF SERVICE

Defendants.
-----X

LORNE M. REITER, ESQ. certifies as follows:

1. I am an attorney duly admitted to practice before this Honorable Court, and I hereby affirm the truth of the following statements under the penalty of perjury.

2. I am a member with the law firm of LAW OFFICES OF LORNE M. REITER, LLC, attorneys for the defendants JULIAN KING and USA TRUCK, INC. and, as such, I am fully familiar with the facts set forth herein.

3. On this date, I served a copy of the within Notice of Removal upon the plaintiff in this action by mailing same via First Class Mail from 124 First Avenue, Atlantic Highlands, New Jersey 07716 addressed to the plaintiff's attorney Tara Magitz, Esq., Drinkwater & Goldstein, LLP, 277 White Horse Pike, Ste. 200, Atco, New Jersey 08004 and via e-mail through e-filing on the New Jersey State Court website.

4. Further, on this date, I caused a copy of the Notice of Removal to be filed with the Clerk of the Superior Court of New Jersey, Law Division, Gloucester County, 1 N Broad St., Woodbury, NJ 08096.

5. Pursuant to 28 U.S.C. §1746, I affirm under penalty of perjury that the foregoing is true and correct.

Dated: November 20, 2020

LAW OFFICES OF LORNE M. REITER, LLC
Attorneys for defendants
JULIAN KING and USA TRUCK, INC.
124 First Avenue
Atlantic Highlands, New Jersey 07716

BY: s/Lorne M. Reiter
LORNE M. REITER